

DECISION



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THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-204480

DATE: June 8, 1982

MATTER OF: Caridad A. Smith - Real Estate Expenses
Incident to Transfer

DIGEST: An employee sold her residence at her old duty station prior to the issuance of written travel orders. The employee's claim may be allowed since the record shows that there was a previously existing administrative intention to transfer the employee evident at the time the real estate expenses were incurred.

Lena M. Jones, an authorized certifying officer of the Department of Housing and Urban Development (HUD), Washington, D.C., requests an advance decision concerning payments on a voucher in the amount of \$4,578.60, submitted by Ms. Caridad A. Smith, a HUD employee. The issue we are presented concerns reimbursement of relocation expenses incurred in the sale of a residence at an employee's old duty station prior to the issuance of written travel orders.

We hold that the real estate expenses claimed by Ms. Smith are reimbursable since the record shows that the agency intended to transfer the employee from San Francisco, California, to Anchorage, Alaska, at the time the expenses were incurred.

Ms. Smith was stationed at the San Francisco, California, Area Office of HUD. On February 9, 1981, the manager of HUD's Anchorage Area Office contacted Ms. Smith by telephone to inform her that she had been selected for a position in the Anchorage office. At that time, he informed Ms. Smith that a hiring freeze was in effect and therefore a "formal" offer could not be made until a waiver of the hiring restrictions was requested and approved. On February 15, 1981, Ms. Smith put her house up for sale.

The agency reports a series of conversations between Ms. Smith and HUD personnel concerning her impending transfer. On March 20, 1981, Ms. Smith contacted a desk officer at the Anchorage office, inquiring whether the waiver had been granted, and stating that she had found a buyer

for her house and would be closing the sale soon. In response to the desk officer's question whether Ms. Smith was selling her house in anticipation of the waiver, Ms. Smith allegedly replied that she would have sold the house in any event. The employee was cautioned not to incur further real estate expenses since the waiver had not yet been approved.

Ms. Smith alleges that on March 27, 1981, she was notified by personnel in HUD's Central Office that the waiver had been granted. Although the agency has not verified this conversation since it has been unable to identify the employee who had contacted Ms. Smith, the administrative report indicates that the waiver actually was approved on March 27.

On March 30, 1981, Ms. Smith contacted the Administrative Officer of the Anchorage office requesting advice on whether she should close the sale of her residence. He advised her to defer settlement since the Anchorage office had not yet received official information regarding the waiver.

On April 3, 1981, Ms. Smith was again informed by the Anchorage desk officer that the waiver had been approved, but that it was the Area Manager's prerogative whether to use the waiver to fill the vacancy in the Anchorage office. On the same day, Ms. Smith closed the sale of her residence.

By telephone conversation of April 10, 1981, the Area Manager offered Ms. Smith the position in the Anchorage office. Written travel orders authorizing relocation expenses were issued on April 16, 1981.

As a general rule, administrative authorization is a necessary condition to the Government assuming the transportation expenses of a transferred employee. 54 Comp. Gen. 993 (1975). Ordinarily, such authorization is evidenced by formal written travel orders issued prior to the performance of travel. Nevertheless, we have held that reimbursement of expenses incurred prior to the issuance of travel orders may be allowed if the subsequently issued travel orders authorize relocation expenses on the basis of a previously existing administrative intention to transfer the employee

evident at the time the expenses were incurred. Joan E. Marci, B-188301, August 16, 1977. What would constitute a clear intention to transfer an employee depends on the specific circumstances of each case. Philip H. Postel, B-187107, October 7, 1976.

We have held in past decisions that verbal notification of a tentative selection for a position constitutes a clear intention to transfer an employee. Gerald S. Beasley, B-196208, February 28, 1980, and cases cited. In this regard, we have found that the requisite administrative intention exists where agency personnel orally advise the employee that he has been selected for a position but that his transfer is contingent on the occurrence of a particular event. James H. Hogan, B-191912, April 5, 1979; John J. Fischer, B-188366, January 6, 1978.

In this case, Ms. Smith was notified on February 9, 1981, that she had been selected for a position in the Anchorage office. Although the proposed transfer was made contingent on the waiver of certain hiring restrictions, the record indicates that there was an administrative intention on February 9 to transfer Ms. Smith in the event that the waiver was approved. See John J. Fischer, above. Since Ms. Smith incurred the expenses for which reimbursement is questioned only after being told that she would be transferred, albeit contingent upon approval of the waiver, we believe that the test stated above has been complied with and Ms. Smith may be reimbursed for allowable expenses.

The agency has also questioned whether the many conversations that took place constituted a clear expression of intent to transfer the employee. The record does disclose several occasions on which HUD personnel advised Ms. Smith not to incur real estate expenses until she had received official notification that her transfer was authorized. Nevertheless, we note that Ms. Smith did not receive these instructions until after she had been advised of her tentative selection for the position in the Anchorage office and had listed her house for sale. In any event, we do not believe that the communication of such a warning is, in itself, a bar to reimbursement for relocation expenses incurred prior to the issuance of written travel orders. See for example James H. Hogan, above.

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The agency alleges that on March 20, 1981, Ms. Smith informed personnel in the Anchorage office that she would have sold her house in any event. The record however, contains Ms. Smith's uncontroverted statement that she put her house up for sale on February 15, 1981, 6 days after she learned that she had been selected for a position in the Anchorage office. In the circumstances we will not question the veracity of Ms. Smith's sworn statement that she sold her house in anticipation of the proposed transfer.

Accordingly, the voucher may be certified for payment.

for *Wilton J. Arnold*
Comptroller General
of the United States